IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

1. WRIT PETITION NO.5037 of 2006

1. Mrs C.M.Dedhia, .. Petitioner (Orig.Deft)

Vs

Smt. Sunanda w/o Ramakant B Desai and ors. .. Respondents (Orig.Plffs)

WITH

2. WRIT PETITION NO.5038 of 2006

1. Mavji M Shah,
since deceased through L Rs
a) Smt Rasilaben M Shah and Ors .. Petitioners (Orig.Defts)

Vs

Smt. Sunanda w/o Ramakant B Desai and ors. .. Respondents (Orig.Plffs)

WITH

3. WRIT PETITION NO.5039 of 2006

1. Dilip B Muzumdar .. Petitioner (Orig.Deft)

Vs

Smt. Sunanda w/o Ramakant B Desai and ors. .. Respondents (Orig.Plffs)

WITH

4. WRIT PETITION NO.5040 of 2006

1. G.M.Telang .. Petitioner (Orig.Deft)

Vs

Smt. Sunanda w/o Ramakant B Desai and ors. .. Respondents (Orig.Plffs)

WITH

5. WRIT PETITION NO.5041 of 2006

1. Kirit M Dedhia .. Petitioner (Orig.Deft)

Vs

Smt. Sunanda w/o Ramakant B Desai and ors. .. Respondents (Orig.Plffs)

Mr A.S.Karwande, for the petitioners.
Mr P.K.Dhakephalkar, senior counsel i/b Mr.A.kacharekar, for respondent nos 1 to 5.

CORAM : D.B.BHOSALE,J.
DATE : 04.09.2006

PC:

1. Heard the learned counsel for the petitioners in all the writ petitions and Mr Dhakephalkar, learned senior counsel for the respondents-plaintiffs. By the order impugned in these petitions, the trial Court has allowed the prayer made by the respondents-plaintiffs seeking permission to allow them to adopt the cross-examination of their witness nos.1 and 2, recorded in Misc.Notice No.425 of 2003, in all the Miscellaneous Notices taken out by them. These proceedings arise from the Misc.Notices taken out by the respondents-plaintiffs for enquiry under order 20, rule 12 of the Code of Civil Procedure as to mesne profits. The enquiry pertains to the different flats in the same building and for determining mesne profits. The respondent-plaintiff has examined two witnesses in Misc.Notice No.425 of 2003.

The advocate for all the petitioners extensively cross-examined the said witnesses. However, according to the petitioner, when the witnesses were being cross-examined, it was restricted to the flat involved in Misc. Notice No.425 of 2003 in R.A.E. No.47/84 of 1992 only and, therefore, all the petitioners in other Misc. Notices are entitled to cross-examine the said witnesses in respect of their flats also. The flats and the floors involved in the enquiry are separate. That being so, the learned counsel for the parties have agreed for the following order.

(i) The learned advocate/s for the petitioners in all the writ petitions will be allowed to further cross-examine the plaintiffs' witness nos 1 and 2 in respect of their flats involved in other notices to determine mesne profits. The trial Court shall complete the recording of further cross-examination within a period of six weeks from the date of receipt of this order and dispose of all the notices as expeditiously as possible and preferably within a period of six months from the date of receipt of this order.

(ii) With these observations, all the writ petitions are disposed of.

(D.B.BHOSALE,J.)